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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,275	04/13/2004	Magnus Svensson	PS03 0296US1	3485
58342 7590 04/10/2009 WARREN A. SKLAR (SOER) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE 19TH FLOOR CLEVELAND, OH 44115				
EXAMINER BELANI, KISHIN G				
ART UNIT 2443		PAPER NUMBER		
MAIL DATE 04/10/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/823,275

**Applicant(s)**

SVENSSON ET AL.

**Examiner**

KISHIN G. BELANI

**Art Unit**

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is in response to Applicants' amendment filed on 12/31/2008. **None of the claims have been amended. Claims 1-21 are now pending** in the present application. However, the applicants' have presented valid arguments in support of independent claims 1 and 14. The examiner has therefore prepared this second non-final office action in response to the RCE filed on 08/27/2008.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 7 and 8** are rejected under 35 U.S.C. 102(b) as being anticipated by **Agraharam et al. (U.S. Patent Publication # 6,035,339)**.

Consider **claim 1**, Agraharam et al. show and disclose a multimedia-messaging-content-capability-negotiation method (Abstract which discloses a method used by a network information delivery device that automatically determines end-user information output requirements based on the end-user's profile; Fig. 1 that shows end-user receiving terminals 112 and 114 in contact with a network information delivery device 110 via LECs (Local Exchange Carriers) 102-104 and network 100, wherein a request

by an end-user terminal 114 for transmission of a multimedia content is sent via LEC 102 (a first service) to the network information delivery device 110, which either retrieves the multimedia-messaging-content-capability-profile of the requesting terminal from a database 118 of such profiles or installs a program in the requesting terminal to extract such profile and transmit it to the device 110; column 2, lines 27-60 disclose the same details); comprising:

receiving, by a first service, of multimedia-messaging-content-capability information from a receiving end client (Fig. 1, LEC 102 (a first service) that receives multimedia-messaging-content-capability information from a receiving end client 114; column 4, lines 5-13 that describe a method for receiving such information from client 114 to LEC 102 by loading a program in the requesting end-user terminal 114 and executing it to collect the multimedia-messaging-content-capability information for the receiving end client 114 and transmit it to device 110 via LEC 102);

transmitting, by the first service, of the multimedia-messaging-content-capability information to a sending end client that originates a message (Fig. 1, LEC 102 (a first service) that sends multimedia-messaging-content-capability information from a receiving end client 114, to the network information delivery device 110; column 4, lines 5-13 that describe a method for receiving multimedia-messaging-content-capability information from the receiving end client 114 via LEC 102; column 3, lines 26-36 disclose an alternate method wherein the profile information has previously been received and saved in a database 118, so the device 110 extracts such information from the database 118; column 2, lines 43-48 also disclose the same details; column 4, lines

31-43 which further disclose that the network information delivery device 110 may retrieve requested multimedia information from information database 108 or from sources connected to a second service LEC 106, thereby originating a message for transmission of the multimedia content to the requesting device 114); and evaluating the multimedia-messaging- content-capability information by the sending end client in order to determine what contents to transmit to the receiving end client (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details; column 4, lines 31-43 which further disclose that device 110 determines the multimedia-messaging-content-capability information of the requesting device 114 by evaluating the received profile of device 114; Fig. 6, steps S1000-S1004 and column 5, lines 13-26 summarize different claim features and Figs. 7-9 and columns 5, line 27 through column 6, line 51 further show and disclose the details of these features).

Consider **claim 2**, and as it applies to **claim 1 above**, Agraharam et al. show and disclose the claimed method, further comprising:

transmitting, by a second service, of a message from the sending end client to the receiving end client (Fig. 1, LEC 104-106; column 4, lines 31-43 which disclose that the network information delivery device 110 may retrieve requested information from information database source 108, and transmit it via LEC 104 (a second service) to requesting device 114, or from other distant sources connected to LEC 106 (another

second service) to the requesting device 114 via LEC 106; Fig. 6, step S1006 and column 5, lines 13-26 summarize different claim features and Fig. 10 and columns 6, lines 52-62 further show and disclose the details of this step); and wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details; Fig. 6, steps S1002-S1004 and column 5, lines 13-26 summarize these claim features and Figs. 7-9 and columns 5, line 27 through column 6, line 51 further show and disclose the details of these features).

Consider **claim 4**, and **as it applies to claim 2 above**, Agraharam et al., further disclose the claimed method, wherein the second service operates in accordance with multimedia messaging services (MMS) (Fig. 1 that shows a second service (LEC 104 or 106) which transmits the requested multimedia data extracted (from the multimedia information source 108) via LEC 104 (or distant LEC 106) to the requesting device 114; column 4, lines 5-43 further disclose that LEC 104-106 (second services) are capable of handling multimedia data).

Consider **claim 7**, and **as it applies to claim 1 above**, Agraharam et al., further disclose the claimed method, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is adapted to receive multimedia

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messages (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details).

Consider **claim 8**, and **as it applies to claim 7 above**, Agraharam et al., further disclose the claimed method, wherein the message is in accordance with MMS (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details, thereby disclosing that the message is in MMS format).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness

or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Bird et al. (European Patent Application Publication # EP 1 043 671 A2)**.

Consider **claim 3**, and as it applies to **claim 1 above**, Agraharam et al., show and disclose the claimed method, except further comprising opting, by the sending end client, to not send a message to the receiving end client.

In the same field of endeavor, Bird et al., disclose the claimed method, further comprising opting, by the sending end client, to not send a message to the receiving end client (in Bird et al. reference, paragraph 0065 which discloses that the message broker uses the specified requirements of the receiving end client before determining



whether a particular subscriber should receive a message; further disclosing that in addition to the analyzing the multimedia processing capability of the receiving client, the processing by the message broker includes processing subscriber information requirements such as a requirement to be notified of the stock price of a company only when the stock price exceeds a threshold price, thereby disclosing not sending a message to the receiving client in case the content does not meet the receiving end client's capabilities or expectation).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to opt out, by the sending end client, by not sending a message to the receiving end client, as taught by Bird et al., in the method of Agraharam et al., so as to reduce unnecessary network traffic by not transmitting the data that the receiving device cannot render, or the requesting user has no interest in.

**Claims 5, 6, 11, 14, 16 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)**.

Consider **claim 5**, and as it applies to **claim 1 above**, Agraharam et al. disclose the claimed method, except wherein the first service operates in accordance with Wireless Village protocol (WV).

In the same field of endeavor, Nielson et al. disclose the claimed method wherein the first service (publishing the capabilities of a receiving terminal) operates in

accordance with Wireless Village protocol (WV) (in Nielson et al. reference, paragraphs 0002, 0004 and 0023 which disclose that the first service uses Wireless Village protocol (WV)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to operate the first service in accordance with Wireless Village protocol (WV), as taught by Nielson et al., in the method of Agraharam et al., because it is the standard authorized protocol for multimedia content exchange between wireless devices.

Consider **claim 6**, and **as it applies to claim 2 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed method, wherein the first service operates in accordance with WV (in Nielson et al. reference, paragraphs 0002, 0004 and 0023 which disclose that the first service operates in accordance with WV (Wireless Village) protocol); and the second service operates in accordance with MMS (in Agraharam et al. reference, Fig. 1 that shows a second service (LEC 104 or 106) which transmits the requested multimedia data extracted (from the multimedia information source 108) via LEC 104 (or distant LEC 106) to the requesting device 114; column 4, lines 5-43 further disclose that LEC 104-106 (second services) are capable of handling multimedia data).

Consider **claim 11**, and **as it applies to claim 1 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed method, wherein the multimedia-

messaging-content-capability information is included in a WV extension field for presence attributes for the receiving end client (in Nielson et al. reference, Fig. 4, presence indicator 50; paragraph 0064 which discloses that the presence indicator may be an indication of the "registration" presence attribute for the receiving end client that uses Wireless Village protocol to register with the first service).

Consider **claim 14**, Agraharam et al. show and disclose an end-to-end multimedia-messaging-content-capability-negotiation system (Abstract which discloses a network information delivery system that automatically determines end-user's requirements for receiving multimedia messaging content based on the end-user's profile; Fig. 1 that shows end-user receiving terminals 112 and 114 in contact with a network information delivery device 110 via LECs (Local Exchange Carriers) 102-104 and network 100, wherein a request by an end-user terminal 114 for transmission of a multimedia content is sent via LEC 102 (a first service) to the network information delivery device 110, which either retrieves the multimedia-messaging-content-capability-profile of the requesting terminal from a database 118 of such profiles or installs a program in the requesting terminal to extract such profile and transmit it to the device 110; column 2, lines 27-60 disclose the same details); comprising:  
receive multimedia-messaging-content-capability information from a receiving end client (Fig. 1, LEC 102 (a first service) that receives multimedia-messaging-content-capability information from a receiving end client 114; column 4, lines 5-13 that describe a method for receiving such information from client 114 to LEC 102 by loading a program in the

requesting end-user terminal 114 and executing it to collect the multimedia-messaging-content-capability information for the receiving end client 114 and transmit it to device 110 via LEC 102); and

transmit the multimedia-messaging-content-capability information to a sending end client that originates a message (Fig. 1, LEC 102 (a first service) that sends multimedia-messaging-content-capability information from a receiving end client 114, to the network information delivery device 110; column 4, lines 5-13 that describe a method for receiving multimedia-messaging-content-capability information from the receiving end client 114 via LEC 102; column 3, lines 26-36 disclose an alternate method wherein the profile information has previously been received and saved in a database 118, so the device 110 extracts such information from the database 118; column 2, lines 43-48 also disclose the same details; column 4, lines 31-43 which further disclose that the network information delivery device 110 may retrieve requested multimedia information from information database 108 or from sources connected to a second service LEC 106, thereby originating a message for transmission of the multimedia content to the requesting device 114); and

an MMS service, wherein the MMS service is adapted to transmit a message from the sending end client to the receiving end client (column 4, lines 31-43 which disclose that the network information delivery device 110 (providing an MMS service) may retrieve the requested multimedia information from information database 108 or from sources connected to a second service LEC 106, thereby originating a message for transmission of the multimedia content to the requesting device 114); and

wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details; column 4, lines 31-43 which further disclose that device 110 determines the multimedia-messaging-content-capability information of the requesting device 114 by evaluating the received profile of device 114; Fig. 6, steps S1000-S1004 and column 5, lines 13-26 summarize different claim features and Figs. 7-9 and columns 5, line 27 through column 6, line 51 further show and disclose the details of these features).

However, Agraharam et al. do not specifically disclose that the multimedia service is a WV service.

In the same field of endeavor, Nielson et al. disclose a WV service (paragraph 0002 that discloses using the Wireless Village (WV) protocol by a first service for Instant Messaging and Presence Services (IMPS)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a WV multimedia service, as taught by Nielson et al., in the system of Agraharam et al., so that the receiving terminal is still able to view the content of the wirelessly transmitted multimedia message despite its limited capabilities.

Consider **claim 16**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed system, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is adapted to receive multimedia messages (in Agraharam et al. reference, Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details).

Consider **claim 19**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a WV extension field for presence attributes for the receiving end client (in Nielson et al. reference, Fig. 4, presence indicator 50; paragraph 0064 which discloses that the presence indicator may be an indication of the "registration" presence attribute for the receiving end client that uses Wireless Village protocol to register with the first service).

**Claims 9 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Heck et al. (US Patent Application Publication # US 2005/0064883 A1)**.

Consider **claim 9**, and **as it applies to claim 1 above**, Agraharam et al. disclose the claimed method, except wherein the multimedia-messaging-content-capability

information indicates that the receiving end client is not adapted to receive multimedia messages.

In the same field of endeavor, Heck et al. disclose the claimed method, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages (Flowchart of Fig. 5, steps 202, 208 that shows that the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages; paragraph 0029 which discloses the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine from the multimedia-messaging-content-capability information that the receiving end client is not adapted to receive multimedia messages, as taught by Heck et al., in the method of Agraharam et al., so that the message sender can attempt to deliver the message portion by any other delivery method within the capabilities of the receiving end client.

Consider **claim 10**, and **as it applies to claim 9 above**, Agraharam et al., as modified by Heck et al., further disclose the claimed method, wherein the message is in accordance with short messaging service (SMS) (in Heck et al. reference, flowchart of Fig. 5, steps 210, 216 and 218; paragraph 0030 that discloses the same details).

**Claims 12 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Vitikainen et al. (US Patent Application Publication # US 2003/0065802 A1)**.

Consider **claim 12**, and **as it applies to claim 1 above**, Agraharam et al., disclose the claimed method, except wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAProf) link in an information presence attribute of the receiving end client.

In the same field of endeavor, Vitikainen et al. disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAProf) link in an information presence attribute of the receiving end client (paragraph 0058 which disclose that if the mobile terminal supports WAP (Wireless Access Protocol) UAProf (User Agent Profile), the mobile terminal provides its detailed multimedia capabilities information according to the UAProf specification).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the multimedia-messaging-content-capability information in a user agent profile (UAProf) link in an information presence attribute of the receiving end client, as taught by Vitikainen et al., in the method of Agraharam et al., so that the message sender can attempt to deliver the message by evaluating the capabilities of the receiving end client.



Consider **claim 13**, and **as it applies to claim 1 above**, Agraharam et al., as modified by Vitikainen et al., further disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving end client (in Vitikainen et al. reference, paragraph 0058 which disclose that when a subscriber requests a multimedia content from a web server, information about the requesting mobile server is also provided through the User Agent Header (UAHeader) field of the WSP (Wireless Service Provider) session, thus disclosing that the multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving client).

**Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view of **Bird et al. (European Patent Application Publication # EP 1 043 671 A2)**.

Consider **claim 15**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., show and disclose the claimed system, except wherein the sending end client may, responsive to receipt of the multimedia-messaging-content-capability information, opt to not send a message to the receiving end client.

In the same field of endeavor, Bird et al., disclose the claimed system, wherein the sending end client may, responsive to receipt of the multimedia-messaging-content-

capability information, opt to not send a message to the receiving end client (paragraph 0065 which discloses that the message broker uses the specified requirements of the receiving end client before determining whether a particular subscriber should receive a message; further disclosing that in addition to the analyzing the multimedia processing capability of the receiving client, the processing by the message broker includes processing subscriber information requirements such as a requirement to be notified of the stock price of a company only when the stock price exceeds a threshold price, thereby disclosing not sending a message to the receiving client in case the content does not meet the receiving end client's capabilities or expectation).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a system wherein the sending end client may, responsive to receipt of the multimedia-messaging-content-capability information, opt to not send a message to the receiving end client, as taught by Bird et al., in the system of Agraharam et al., as modified by Nielson et al., so as to reduce unnecessary network traffic by not transmitting the data that the receiving device cannot render, or the requesting user has no interest in.

**Claims 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view of **Heck et al. (US Patent Application Publication # US 2005/0064883 A1)**.

Consider **claim 17**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., disclose the claimed system, except wherein the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages.

In the same field of endeavor, Heck et al. disclose the claimed system, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages (Flowchart of Fig. 5, steps 202, 208 that shows that the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages; paragraph 0029 which discloses the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine from the multimedia-messaging-content-capability information that the receiving end client is not adapted to receive multimedia messages, as taught by Heck et al., in the system of Agraharam et al., as modified by Nielson et al., so that the message sender can attempt to deliver the message portion by any other delivery method within the capabilities of the receiving end client.

Consider **claim 18**, and **as it applies to claim 17 above**, Agraharam et al., as modified by Nielson et al. and Heck et al., further disclose the claimed system, wherein the message is in accordance with short messaging service (SMS) (in Heck et al. reference, flowchart of Fig. 5, steps 210, 216 and 218; paragraph 0030 that discloses the same details).

**Claims 20 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view of **Vitikainen et al. (US Patent Application Publication # US 2003/0065802 A1)**.

Consider **claim 20**, and as it applies to **claim 14 above**, Agraharam et al., as modified by Nielson et al., disclose the claimed system, except wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAProf) link in an information presence attribute of the receiving end client.

In the same field of endeavor, Vitikainen et al. disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAProf) link in an information presence attribute of the receiving end client (paragraph 0058 which disclose that if the mobile terminal supports WAP (Wireless Access Protocol) UAProf (User Agent Profile), the mobile terminal provides its detailed multimedia capabilities information according to the UAProf specification).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the multimedia-messaging-content-capability information in a user agent profile (UAProf) link in an information presence attribute of the receiving end client, as taught by Vitikainen et al., in the system of Agraharam et al., as modified by Nielson et al., so that the message sender can attempt to deliver the message by evaluating the capabilities of the receiving end client.

Consider **claim 21**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al. and Vitikainen et al., further disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving end client (in Vitikainen et al. reference, paragraph 0058 which disclose that when a subscriber requests a multimedia content from a web server, information about the requesting mobile server is also provided through the User Agent Header (UAHeader) field of the WSP (Wireless Service Provider) session, thus disclosing that the multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving client).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kishin G. Belani whose telephone number is (571) 270-1768. The Examiner can normally be reached on Monday-Friday from 6:00 am to 5:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-0800.

/K. G. B./  
Examiner, Art Unit 2443

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April 6, 2009

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443